

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13956, of LDJA Limited Partnership, et al., pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the requirement that roof structures be placed in one enclosure (Paragraph 3308.12) for a proposed structure containing offices, a residential hotel and accessory parking in a C-2-C District at premises located at 23rd, 24th and M Streets, N.W., (Square 37, Lot 55).

HEARING DATE: April 27, 1983

DECISION DATE: June 1, 1983

FINDINGS OF FACT:

1. The subject property is located on the south side of M Street between 23rd and 24th Streets, N. W. at premises known as 2300 M Street, N.W. It is in a C-2-C District.

2. The site is generally square in shape and contains approximately 61,466 square feet of land with approximately 274 feet of frontage on M Street, 224 feet of frontage on 23rd Street and 224 feet of frontage on 24th Street. The site is one record lot and is improved with a mixed use development consisting of a highrise residential structure known as the Gibson Condominium at 1140 - 23rd Street, N.W., a 234 room hotel and related facilities on 24th and M Streets, N.W. and an office building of approximately 163,809 gross square feet fronting on 23rd and M Streets, N.W. The hotel and office portion are presently under construction.

3. The subject lot 55 is owned by LDJA Limited Partnership, the Square 37 Partners and the Gibson Condominium Association. The hotel/office portion of the project will be developed and owned by LDJA Limited Partnership and Square 37 Partners.

4. The prior developer of this site constructed and sold the Gibson Condominium. As a condition for the sale of the remaining portion of lot 55 excluding the portion owned by the Gibson Condominium, LDJA Limited Partnership and Square 37 Partners were required to maintain the development as a single building on a single record lot and to seek the necessary alley closing.

5. The existing Gibson Condominium has its own roof structure and is occupied as a residential structure.

6. The applicant seeks relief from Paragraph 3308.12 which requires that all roof structures be placed in one enclosure. The roof structure of the Gibson Condominium is presently in one enclosure. The hotel/office portion requires an additional roof structure to house mechanical equipment which, because of the project design and nature of its use, is sited in its most efficient location.

7. The existing roof structure of the Gibson Condominium is approximately thirty-one feet south of the northern wall of the building. The proposed construction of the hotel/office roof structure will abut the north wall of the Gibson Condominium. All of the construction necessary to construct the two roof structures would occur on the roof of the Gibson Condominium.

8. The applicants could comply with the strict application of the Zoning Regulations by constructing connecting walls between the proposed roof structure and the Gibson Condominium roof structure. This would cause disruption to the Gibson Condominium during the construction of the connecting walls on the roof of the Gibson building, would serve no useful benefit and would be more obtrusive than the proposed plan, not to connect the two roof structures.

9. The cost of constructing the two connecting walls, approximately 18.5 feet high and thirty feet long each, for a total of an additional 1100 square feet of masonry wall, would be approximately \$20,000. These walls would not house elevators or mechanical equipment and would serve no useful function. Further, the walls would impede the openness of the Gibson sun deck area located on the roof. The roof is enclosed by a railing and contains benches. An existing open stair well which provides access to the roof is also located within the roof area that would be enclosed.

10. The applicants' practical difficulties stem from the size of the lot upon which the different portions of the structure are located. Further, the technical difficulties involved in constructing on the roof of an occupied building, the distance between the Gibson Condominium roof structure and the proposed roof structure, and the cost of construction all make it impracticable and unreasonable to require connection between the two roof structures. The wall would also cause a greater amount of shadow to fall on the adjacent development and would restrict the existing use of the roof area for passive recreational purposes.

11. The color of the structure of the hotel/office will be different than the existing Gibson Condominium. The existing Gibson Condominium roof structure is constructed of brick and of the same color as the condominium. The

connecting walls if required, would be constructed of brick and be the same color.

12. The proposed additional roof structure will not impair the intent and purpose of the Zoning Regulations. The structure will meet all of the other requirements of Section 3308 relating to height and setback of roof structures in the C-2-C District. The proposal will actually create less of a visual impact than if the applicants proceeded in strict compliance with the Regulations. Thus, the proposal will not adversely affect the use of neighboring property.

13. The Board of Directors of the Gibson Condominium Association, Inc., on behalf of the unit owners of the Association, who are co-applicants, requested that the application be granted. The Association reported that representatives of the applicants, LDJA Limited Partnership and Square 37 Partners, had met with the members of the Board of Directors on several occasions to explain the building program. It was understood that since the Condominium Association building and the hotel and office structures are, under the Zoning Regulations, technically a single building only one roof structure is permitted pursuant to the provisions of Section 3308 of the Zoning Regulations. However, in fact the Gibson Condominium building was erected in 1981 and functions as a separate and distinct building from the hotel and office structure being constructed on the site. Therefore, from an aesthetic standpoint there are two buildings on the site each proposed to have its own roof structure. The occupants of the Gibson Condominium have been working with the applicants to minimize the disruption which would occur during the construction phase of a project. If a roof structure approximately eighteen feet in height must be constructed across the Condominium Association building's roof to link up with the applicant's roof structures, certain inconveniences necessarily will ensue. In conjunction with this issue, the applicants had informed the Condominium Association that there are technical problems in constructing around the Gibson Condominium building's required stair to the roof. The Condominium Association, as the party most immediately affected by the proposed construction, reported that no adverse impact will occur to its properties as a result of the granting of the relief requested.

14. A letter expressing no objection was received from a property owner in the 1100 block of 23rd Street, N. W.

15. Advisory Neighborhood Commission 2A, by resolution dated April 4, 1983, supported the application. The ANC reported that the subject site is affected by an exceptional situation or condition in that the site is affected by the

presence of the already existing and occupied Gibson Condominium building and the large size of the subject lot. The applicants would face practical difficulties if the BZA were to deny the relief requested in that inconvenience will result to the Gibson Condominium occupants through construction activities on their roof and the loss of sun deck area and a further practical difficulty through the construction of penthouse walls which serve no purpose but to connect two roof structures. Further, the granting of the requested relief will result in no adverse impact to abutting and neighboring properties. The Board concurs in the ANC recommendation.

16. No one appeared in opposition to the application.

CONCLUSIONS OF LAW AND OPINION:


Based on the findings of fact and the evidence of record, the Board concludes that the applicants are seeking an area variance, the granting of which requires the showing of an exceptional or extraordinary condition of the property which creates a practical difficulty for the owner. The Board concludes that the subject site is affected by an exceptional situation or condition in that the site is very large and is currently improved with the Gibson Condominium which has an existing penthouse in one enclosure. The applicants would face practical difficulties if forced to comply with the Zoning regulations by constructing connecting walls between the proposed roof structure and the Gibson roof structure. It is impracticable and unreasonable to require a connection between the two structures. The Board concludes that denial of the requested relief would inconvenience the Gibson because of the construction activities and the loss of a sun deck area. The Board further concludes that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and maps.

The Board further concludes that it has accorded to the ANC the "great weight" to which it is entitled. Accordingly, it is hereby ORDERED that the application is GRANTED.

VOTE: 4-0 (Walter B. Lewis, William F. McIntosh, Carrie L. Thornhill and Charles R. Norris to grant; Douglas J. Patton not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: AUG - 2 1983

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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